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OCT 10 2006

OFFICE OF PETITIONS

In re Application of :
Thomas, et al. : DECISION ON PETITION
Application No. 10/748,720 :
Filed: December 30, 2003 :
Docket No.: UTSD:703USD1 :
:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 11, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action, mailed September 23, 2005, which set a three month statutory period of time for reply. Notice of Abandonment was mailed May 22, 2006.

Petitioners assert that a reply to the Office action in the form of a Notice of Appeal was timely submitted December 21, 2005, and have submitted as proof of submission and receipt of the reply purportedly filed December 21, 2005 a postcard date stamped December 27, 2005. The reply bears a certificate of mailing date of December 21, 2005 in accordance with 37 CFR 1.8.

Petitioners' arguments and supporting documentation have been carefully considered and support petitioner's conclusion that a reply to the Office action was timely submitted.

In view thereof, the Notice of Abandonment mailed May 22, 2006 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.


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Office of Petitions